

on September 5, 2023 regarding concern that the structures would meet the definition of a dwelling unit for the purposes of tourist cabins, stating that “as long as the structures contain a space for sleeping and gathering, including a full bathroom and kitchen area with sink, cooking appliances and refrigerator, it should meet the requirements.” Attorney Stenger stated there were two (2) issues before the Board. The first issue would be the construction of the statute and does the reference to lodging in the dwelling unit statute create “carve out” for the cabins from being building units. Attorney Stenger stated what was a lodging unit had shared kitchens and facilities and didn’t have the elements of the building unit as described on September 5, 2023 by the CEO. Attorney Stenger stated the second problem (which he felt was a legal problem), was that the law was clear and the first answer given on September 5, 2023 should have controlled unless there was an explanation. Attorney Stenger stated those were the two issues and they were legal issues.

Member Kiernan recused herself from any discussion on the matter.

08-23-24-02 Karabec Appeal of CEO June 28, 2024 Letter of Determination - §123-24(B)

Attorney Stenger read the section of the Code which stated that when an application for development was received, the Planning Board needed to calculate the baseline density. Constrained lands were “backed out” of the calculation. Attorney Stenger had requested confirmation that the baseline density calculation applied to a summer cottage colony. He stated the calculation had not been done by the Planning Board. On June 28, 2024, CEO Jaffee responded stating that the “maximum allowed cabins will be 78.”

PUBLIC HEARING

08-06-24-01 Sickler Area Variance
 119 East Main Street, Port Ewen
 SBL No. 56.60-5-5.300

Jean Kren Sickler was present. A deed granted prior to 1971 had been provided. CEO Jaffee stated that the lot had been created pre-zoning but that it didn’t meet the minimum 50’ width. There was discussion regarding setbacks. CEO Jaffee stated setbacks were not at issue and the Code didn’t require a variance for setbacks. The Board agreed that since the lot was pre-existing undersized lot, it met the list of conditions specified in the Code. Ms. Sickler stated that a plan for a house had not been presented and she was prepared to build to conform with the Code and would not exceed 30’ x 26’ and may even be smaller.

One neighbor had provided written comment expressing objection to the proposal. There were no persons present wishing to speak.

Upon Motion of Chairman Wick, seconded by Member Zahedi and the affirmative vote of 6 members, the negative vote of 0 members, the abstention of 0 member and 1 member

being absent, the Motion to close the Public Hearing at 7:40 p.m. was carried by the following vote:

Member:	Vote
Karl Wick, Chairman	Aye
Guy Brought	Aye
Gloria Van Vliet	Aye
Katie Zahedi	Aye
James Tomassetti	Excused
Mike Pittner	Aye
Kathy Kiernan	Aye

Upon polling the Board, it was determined that the Members were prepared to vote.

DECISIONAL:

08-06-24-01 Sickler Area Variance
 119 East Main Street, Port Ewen
 SBL No. 56.60-5-5.300

Upon Motion of Member VanVliet, seconded by Member Quick and the affirmative vote of 6 members, the negative vote of 0 members, the abstention of 0 member and 1 member being absent, the Motion to grant a 4’ area variance to allow a lot width of 46’ with any structure to be a maximum of 30’ x 26’ as depicted on the plan provided, was carried by the following vote:

Member:		Vote
Karl Wick, Chairman	Does not create a detriment to the neighborhood, not a substantial variance (was less than 10%) and was a pre-existing lot	Aye
Guy Brought		Aye
Gloria Van Vliet	Many small lots are situated in the Town and the variance is only for 4’	Aye
Katie Zahedi	Concurred with comments and was familiar with the neighborhood	Aye
James Tomassetti		Excused
Mike Pittner	Concurred with comments provided	Aye
Kathy Kiernan	Concurred with Member VanVliet	Aye

06-11-24-01

Attorney Stenger Appeal of 4/1/2024 CEO Letter of Determination - Seasonal

Chairman Wick stated the question was whether the definition of “seasonal” applied to a project or part of a project. (I think Chairman meant to say “property”). Chairman Wick queried if the definition applied to a property as a whole or part of a property. He stated the ZBA could not vote on a particular case because it would apply to everything in the Town. The definition would not be for a specific project. Member Zahedi requested clarification. It was the opinion of the Chairman that the definition would apply to a property as a whole and not to specific areas within a property.

CEO Jaffee stated that the ZBA had no authority to restrict any property owner to any uses within the Code. Chairman Wick stated the ZBA was trying to define a word, not restrict a use. Discussion ensued regarding the seasonal definition and how it would be applied. Attorney Harris stated the point was, that if the definition was applied to a project in the future, the Planning Board would apply the definition of the ZBA definition. For clarification, Chairman Wick stated that the current task before the ZBA was to determine if the CEO’s determination was correct. The ZBA was not revisiting the definition of “season.”

Attorney Horan requested on behalf of the developer, if the vote could be held when Member Tomassetti could be present. With respect to the definition of “seasonal” to his understanding, was within the definition of “summer cottage colony.” Chairman Wick stated that it was applied wherever the term appeared in Chapter 123 of the Code. The ZBA agreed to reserve a decision until Member Tomassetti could be present. Attorney Stenger disagreed stating that a Member had recused and that appointment of another Member should be made. Member Wick noted that a quorum of the Board was present. It was the choice of the Board Member who recused to determine whether the recusal would stand given the vote was relative to a definition. The ZBA agreed to hold the vote until the October 2024 meeting.

CEO - Request for interpretation of “structure” -

The ZBA agreed that the definition of “structure” was acceptable. Chairman Wick read the definition of “structure” from the Code.

Chairman Wick motioned that the present definition of “structure” under §123 of the Code was sufficient seconded by Member Brought and all Members present voting in favor, the Motion carried 4-0-1-1.

Member Kiernan rejoined the meeting.

Upon Motion of Chairman Wick, seconded by Member Kiernan and all in favor, the meeting was adjourned at 8:01 p.m.

Respectfully submitted,

Lisa K. Mance, Administrative Assistant

Submitted on October 2, 2024

Approved: October 15, 2024